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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,864	02/20/2002	Sergey Lukyanov	CLON-067	2910

41064 7590 07/19/2005

BOZICEVIC, FIELD & FRANCIS (BD BIOSCIENCES)
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EXAMINER

ROBINSON, HOPE A

ART UNIT PAPER NUMBER

1656

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental
Notice of Allowability**

Application No.

10/081,864

Examiner

Hope A. Robinson

Applicant(s)

LUKYANOV ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/13/05.
2. ☒ The allowed claim(s) is/are 1-3,6-9,16,21-23,35-38 and 40.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 6/6/05.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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SUPPLEMENTAL EXAMINER'S AMENDMENT

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1656.
2. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
3. Authorization of this Examiner's amendment was given in a telephone interview with Mr. Bret Field on July 13, 2005.
4. The Claims have been amended as follows:

Claim 1 (Currently Amended) A nucleic acid present₁ in other than its natural environment₁ that encodes a non-aggregating chromo- or fluorescent mutant of an aggregating *Cnidarian* chromo- or fluorescent protein or mutant thereof,

wherein said nucleic acid has a nucleotide sequence set forth in one of SEQ ID NOS:14, 15, 17, 19, 21 and 23; and

wherein said non-aggregating chromo- or fluorescent mutant [[comprises]] includes a mutation in at least one residue in the N-terminal region at any of the

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positions [[2, 3, 4, 5, 6, 7, 8, 9 or 10 of said chromo- or fluorescent mutant which is encoded by the nucleotide sequences set forth in SEQ ID NOS:14, 15, 17, 19, 21, and 23]] 2, 5, 6, 7, 9 or 10 with respect to said aggregating *Cnidarian* chromo- or fluorescent protein or mutant.

Claim 21 (Currently Amended) A nucleic acid, present in other than its natural environment, that encodes a non-aggregating chromo- or fluorescent mutant of an aggregating *Cnidarian* chromo- or fluorescent protein or mutant thereof,

wherein said non-aggregating *Cnidarian* chromo- or fluorescent mutant is encoded by a nucleotide sequence set forth in one of SEQ ID NOS:14, 15, 17, 19, 21 and 23; and

wherein said non-aggregating *Cnidarian* chromo- or fluorescent mutant [[comprises]] includes a mutation in at least one [[codon of a]] residue [[at any of the positions 2, 3, 4, 5, 6, 7, 8, 9 or 10 of said chromo- or fluorescent mutant]] in the N-terminal region

at any of the positions 2, 5, 6, 7, 9 or 10 with respect to said aggregating *Cnidarian* chromo- or fluorescent protein or mutant; and

wherein said mutation leads to a substitution selected from the group consisting of:

- a) a threonine residue for a lysine residue,
- b) an alanine residue for an arginine residue, and
- c) a glutamic acid residue for a lysine residue.

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[[which leads to a substitution of a threonine residue for a lysine residue, an alanine residue for an arginine residue, or a glutamic acid residue for a lysine residue, wherein said non-aggregating chromo- or fluorescent mutant is encoded by the nucleotide sequences set forth in SEQ ID NOS:14, 15, 17, 19, 21, and 23.]]

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr, can be reached at (571) 272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope Robinson, MS

Patent Examiner



KATHLEEN M. KERR, PH.D.
SUPERVISORY PATENT EXAMINER